

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FINJAN, INC.,

Plaintiff,

v.

CISCO SYSTEMS INC.,

Defendant.

Case No. 17-cv-00072-BLF (SVK)

ORDER ON MOTIONS TO SEAL

Re: Dkt. Nos. 618, 626, 637, 653

The Administrative Motions to File Documents Under Seal currently before the Court include motions filed by Plaintiff Finjan, Inc. (Dkt. 618, 626, and 653) and Defendant Cisco Systems Inc. (Dkt. 637) (collectively, the “Motions”) seeking to seal certain materials submitted to the Court in connection with (1) Finjan’s Motion for Leave to File a Motion for Reconsideration of the Court’s Order on Cisco’s Motion to Strike Portions of Finjan’s Amended Expert Report, and (2) Finjan’s Motion for Reconsideration of the Court’s Order on Cisco’s Motion to Strike Portions of Finjan’s Amended Expert Reports.

Courts recognize a “general right to inspect and copy public records and documents, including judicial records and documents.” *Kamakana v. City & Cnty. Of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Communs., Inc.*, 435 U.S. 589, 597 & n.7 (1978)). A request to seal court records therefore starts with a “strong presumption in favor of access.” *Kamakana*, 447 F.3d at 1178 (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). The standard for overcoming the presumption of public access to court records depends on the purpose for which the records are filed with the court. A party seeking to seal court records relating to motions that are “more than tangentially related to the underlying cause of action” must demonstrate “compelling reasons” that support secrecy. *Ctr. For Auto Safety v. Chrysler Grp.*, 809 F.3d 1092, 1099 (9th Cir. 2016). For records attached to

1 motions that re “not related, or only tangentially related, to the merits of the case,” the lower
 2 “good cause” standard of Rule 26(c) applies. *Id.*; *see also Kamakana*, 447 F.3d at 1179. A party
 3 moving to seal court records must also comply with the procedures established by Civil Local
 4 Rule 79-5.

5 Here, the “good cause” standard applies because the information the parties seek to seal
 6 was submitted to the Court in connection with a discovery-related motion, rather than a motion
 7 that concerns the merits of the case. Having considered the Motions and supporting declarations,
 8 as well as the Declarations of Nicole Grigg (Dkt. 631, 632, 637-1, and 655) in support thereof, and
 9 the pleadings on file, and good cause appearing, the Motions are hereby **GRANTED** as follows:

10
 11 **Dkt. 618: Finjan’s Administrative Motion to File Under Seal**

Ex. No.	Document	Portion(s) to Seal	Reason(s) for Sealing
	Finjan Inc.’s Motion for Leave to File Motion for Reconsideration	GRANTED as to Highlighted portions at i:15, 18; 2:15, 28; 3:1, 13-14, 26; 4:18-22, 26; 5:23; 6:2, 10, 16, 18; 7:3, 4, 6, 9-14; 8:3, 6, 8-24, 27; 9:12-13, 19, 25; 10:13-16, 23; and 11:14, 17, 23, 26.	Portions of this document contain confidential technical information and source code related to the accused Cisco products. Public disclosure of this information would cause harm to Cisco. Redactions are narrowly tailored. <i>See</i> Grigg Decl. (Dkt. 631) at ¶ 2.
Exhibit 1 to the Declaration of Aamir A. Kazi in Support of Finjan Inc.’s Motion for Leave to File Motion for Reconsideration	Excerpt from the Expert Report of Dr. Atul Prakash Regarding Non-Infringement of U.S. Patent No. 7,647,633, dated August 14, 2019.	Entirety	This document contains confidential technical information and source code related to the accused Cisco products. Public disclosure of this information would cause harm to Cisco. <i>See</i> Grigg Decl. (Dkt. 631) at ¶ 2.

24
 25 **Dkt. 626: Finjan’s Administrative Motion to File Under Seal**

Ex. No.	Document	Portion(s) to Seal	Reason(s) for Sealing
Dkt. 623	Finjan Inc.’s Motion for Reconsideration	Highlighted portions at i:15, 17-18; 2:18; 3:4-5, 17-18; 4:4;	Portions of this document contain confidential technical information and source code related to the

		4:23-27; 5:3, 28; 6:7, 15, 21, 23; 7:8, 9, 11, 14-19; 8:8, 11, 13, 14-28; 9:1, 4, 17, 18, 24; 10:2, 18-21, 28; 11:19, 22; and 12:1, 4.	accused Cisco products. Public disclosure of this information would cause harm to Cisco. Redactions are narrowly tailored. <i>See</i> Grigg Decl. (Dkt. 632) at ¶ 2.
Exhibit 1 to the Declaration of Aamir A. Kazi in Support of Finjan Inc.'s Motion for Reconsideration	Excerpt from the Expert Report of Dr. Atul Prakash Regarding Non-Infringement of U.S. Patent No. 7,647,633, dated August 14, 2019.	Entirety	This document contains confidential technical information and source code related to the accused Cisco products. Public disclosure of this information would cause harm to Cisco. <i>See</i> Grigg Decl. (Dkt. 632) at ¶ 2.

Dkt. 637: Cisco's Administrative Motion to File Under Seal

Ex. No.	Document	Portion(s) to Seal	Reason(s) for Sealing
	Cisco's Brief in Opposition to Finjan Inc.'s Motion for Reconsideration	Table of Contents, lines 10-11; page 2, lines 13-15, 21; page 6, line 20; page 7, lines 3, 10, 12-13, 22; page 8, lines 12-13, 24; page 9, lines 2, 5, 16, page 10, lines 13, 15, 18-20; page 11, lines 18, 20-22; page 12, lines 21-22; page 13, lines 5, 12, 14, 21, 23, 27-18; page 14, lines 3, 9, 11, 13, 15	Portions of this document contain confidential technical information and source code related to the accused Cisco products. Public disclosure of this information would cause harm to Cisco. Redactions are narrowly tailored. <i>See</i> Grigg Decl. (Dkt. 637-1) at ¶ 2.
Exhibit 1 to the Grigg Declaration of in Support of Cisco's Brief in	Excerpt from the Expert Report of Dr. Atul Prakash Regarding Non-Infringement of U.S. Patent No. 7,647,633,	Entire Document	This document contains confidential technical information and source code related to the accused Cisco products. Public disclosure of this information

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Opposition to Finjan Inc.'s Motion for Reconsideration	dated August 14, 2019.		would cause harm to Cisco. <i>See</i> Grigg Decl. (Dkt. 637-1) at ¶ 2.
---	---	------------------------	--	---

Dkt. 653: Finjan's Administrative Motion to File Under Seal

Ex. No.	Document	Portion(s) to Seal	Reason(s) for Sealing
	Finjan Inc.'s Reply In Support Of Its Motion For Reconsideration of the Court's Order on Cisco's Motion to Strike Portions of Finjan's Amended Expert Reports (Dkt. No. 582)	Highlighted portions at: 3:4,8; 4:3-28; 5:21-22; 6:7, 10, 14, 20-21, 24-25; 7:13-14, 18-21, 25, 28; 8:3, 6-11, 14-15, 21; 10:15, 17, 19, 21; 11:4, 7, 12, 14, 16, 24; and 12:5-6.	Portions of this document contain confidential technical information and source code related to the accused Cisco products. Public disclosure of this information would cause harm to Cisco. Redactions are narrowly tailored. <i>See</i> Grigg Decl. (Dkt. 655) at ¶ 2.
Exhibit 2 to the Declaration of Aamir A. Kazi in Support of Finjan Inc.'s Reply In Support of Its Motion for Reconsideration of the Court's Order on Cisco's Motion to Strike Portions of Finjan's Amended Expert Reports (Dkt. No. 582)	Excerpt from the August 27, 2019, Deposition of Patrick McDaniel	Entirety	This document contains confidential technical information and source code related to the accused Cisco products. Public disclosure of this information would cause harm to Cisco. <i>See</i> Grigg Decl. (Dkt. 655) at ¶ 2.
Exhibit 3 to the Declaration of Aamir A. Kazi in Support of Finjan Inc.'s Reply In Support of Its Motion for Reconsideration of the Court's Order on	Excerpt from the April 17, 2019, Deposition of Donald Owens	Entirety	This document contains confidential technical information and source code related to the accused Cisco products. Public disclosure of this information would cause harm to Cisco. <i>See</i> Grigg Decl. (Dkt. 655) at ¶ 2.

Cisco's Motion to Strike Portions of Finjan's Amended Expert Reports (Dkt. No. 582)			
---	--	--	--

SO ORDERED.

Dated: June 11, 2020


 SUSAN VAN KEULEN
 United States Magistrate Judge

United States District Court
 Northern District of California